

U.S. Department of Labor

Employment Standards Administration
Office of Labor-Management Standards
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March 6, 2007

Mr. Fred Koch, Secretary-Treasurer
United Food & Commercial Workers/Chemical Workers
Local 976
500 E. Patapsco Avenue
Baltimore, MD 21225

Re: Case Number: [REDACTED]

Dear Mr. Koch:

This office has recently completed an audit of United Food & Commercial Workers/Chemical Workers Local 976 under the Compliance Audit Program (CAP) to determine your organization's compliance with the provisions of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA). As discussed during the exit interview with President Mike Kavanaugh and you on March 9, 2007, the following problems were disclosed during the CAP. The matters listed below are not an exhaustive list of all possible problem areas since the audit conducted was limited in scope.

Recordkeeping Violations:

Title II of the LMRDA establishes certain reporting and recordkeeping requirements. Section 206 requires, among other things, that adequate records be maintained for at least 5 years by which each receipt and disbursement of funds, as well as all account balances, can be verified, explained, and clarified. As a general rule, all records used or received in the course of union business must be retained. This includes, in the case of disbursements, not only the retention of original bills, invoices, receipts, and vouchers, but also adequate additional documentation, if necessary, showing the nature of the union business requiring the disbursement, the goods or services received, and the identity of the recipient(s) of the goods or services. In most instances, this documentation requirement can be satisfied with a sufficiently descriptive expense receipt or invoice. If an expense receipt is not sufficiently descriptive, a note can be written on it providing the additional information. An exception may be made only in

those cases where 1) other equally descriptive documentation has been maintained, and 2) there is evidence of actual oversight and control over disbursements.

In the case of receipts, the date, amount, purpose, and source of all money received by the union must be recorded in at least one union record. Bank records must also be retained for all accounts.

The audit of Local 976's 2006 records revealed the following recordkeeping violations:

1. Officer Expenses

Union officers failed to maintain adequate documentation for reimbursed expenses. All receipts must be maintained. The date, amount, and business purpose of every expense must be recorded on at least one union record. In addition, the names of individuals present for meal expenses and the locations (names of restaurants) where meal expenses were incurred must be recorded. Furthermore, some pages of the cellular phone bill, paid by Local 976 on behalf of the local president, were missing. Local 976 must retain all pages of the cell phone bill.

2. Lost Wages

Union records failed to record the date and/or purpose of lost wage claims. Records must be maintained that identify the date, number of hours lost, rate of pay, and the specific union purpose for all lost wages.

As agreed, provided that Local 976 maintains adequate documentation as discussed above in the future, no additional enforcement action will be taken regarding these violations.

Reporting Violations

The CAP disclosed a violation of LMRDA Section 201(b), which requires labor organizations to file annual financial reports accurately disclosing their financial condition and operations. The Labor Organization Annual Report (Form LM-) filed by Local 976 for fiscal year ending June 30, 2006, was deficient in the following area:

1. LM-3 Item 24 (All Officers and Disbursements to Officers)

Local 976 failed to include some reimbursements to officers in Item 24 (All Officers and Disbursements to Officers). Such payments appear to have been erroneously reported in Item 48 (Office & Administrative Expense).

All direct disbursements to Local 976 officers and some indirect disbursements made on behalf of its officers must be reported in Item 24. A "direct disbursement" to an officer is a payment made to an officer in the form of cash, property, goods, services, or other things of value. An "indirect disbursement" to an officer is a payment to another party (including credit card companies) for cash, property, goods, services, or other things of value received by or on behalf of an officer. However, indirect disbursements for temporary lodging (such as a union check issued to a hotel) or for transportation by a public carrier (such as an airline) for an officer traveling on union business should be reported in Item 48 (Office and Administrative Expense).

The following mistakes were noted on the Form LM-3:

- Officer salaries were incorrectly reported as allowances under Item 24, Column E (Allowances and Other Disbursements). Instead, the reported figures should be entered as salary under Item 24, Column D (Gross Salary).
- Several Local 976 officers held two officer positions during the audit period. If an officer held more than one position during the reporting period, the LM report should list the officer once in Item 24 (All Officers and Disbursements to Officers) and should report the gross salary and allowance payments to that officer for the entire fiscal year. Furthermore, the LM report should list each additional position and the dates on which the officer held the position in Item 56 (Additional Information).
- One of the Local 976 officers did not hold office through the end of the fiscal year. However, the LM report lists this officer's status as current in Item 24, Column C (Status). In the box labeled "Status", you should enter the status of each officer: "N" for a new officer who took office during the reporting period; "P" for a past officer who was not in office at the end of the reporting period; or "C" for a continuing officer who was in office before the reporting period and was still in office at the end of the reporting period. Since this officer was not in office at the end of the reporting period, his status should be reported as "P" for past.

- Other disbursements for Local 976 officers were not reported on the LM report. All payments to officers for per diem, or reimbursements for food, mileage, airfare, and office supplies must be reported in Item 24, Column E (Allowances and Other Disbursements). Furthermore, payments made to Sprint/Nextel for Local 976 President Edward Kennedy's cellular phone service must be reported in Item 24, Column E.
- All reimbursements made to W. R. Grace for work missed by Local 976 officers due to union business must be reported on the LM report. This is an indirect disbursement on behalf of the officer and must be reported next to his name as salary in Item 24, Column D (Gross Salary).

Local 976 must file an amended Form LM-3 for fiscal year ending June 30, 2006, to correct the deficient items discussed above. I provided you with a blank form and instructions, and discussed with you the availability of the reporting forms and instructions on the OLMS website (www.olms.dol.gov). The amended Form LM-3 should be submitted to this office at the above address as soon as possible, but not later than April 15, 2007. Before filing, review the report thoroughly to be sure it is complete, accurate, and signed properly with original signatures.

Other Issues

The audit disclosed the following other issues:

1. No Authorization for Salaries

During the audit, I advised you that authorization for the salary amounts paid to union officers could not be found in union records. I recommend that Local 976 document the authorized salary amounts in its bylaws or record them in meeting minutes or some other internal document (following discussion in the appropriate membership and/or executive board meeting). When the authorized salary amounts have been recorded in union records, please forward a copy of the record documenting the authorization to me at the above address.

2. Countersignature (Signing Blank Checks)


During the audit, you advised that Local 976 President Mike Kavanaugh and Recorder Joe Skipper sign blank checks in advance. Article IX, Section C of your union's bylaws require that all checks be signed by at least two of the three members of the Local Union Board of Trustees. Article IX, Section A designates

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the President and Secretary-Treasurer as members of the Local Union Board of Trustees, by virtue of their office. Per your bylaws, these trustees are responsible for "ensuring that the funds and property of the Local Union are properly received and managed for the sole use and benefit of the Local Union." The countersignature requirement, therefore, is an effective internal control of union funds. Its purpose is to attest to the authenticity of a completed document already signed. However, countersigning a blank check in advance does not attest to the authenticity of a completed check, and completely circumvents and undermines the whole purpose of the countersignature requirement. I recommend that Local 976 review these procedures to improve internal control of union funds.

I want to extend my personal appreciation to United Food & Commercial Workers/Chemical Workers Local 976 for the cooperation and courtesy extended during this compliance audit. I strongly recommend that you make sure this letter and the compliance assistance materials provided to you are passed on to future officers. If we can provide any additional assistance, please do not hesitate to call.

Sincerely,


Investigator

cc: Mike Kavanaugh, President